City of Bellevue
Development Services Department
Land Use Staff Report

Proposal Name:	COBT 150th Ave SE at SE Newport Way
Proposal Address:	150th Ave SE at SE Newport Way
Proposal Description:	The City of Bellevue Transportation Department (COBT) proposes to construct a right-turn lane on 150th Ave SE at SE Newport Way. A southbound to westbound 800-foot right-turn lane would be added on the west side of 150th Ave SE, north of the intersection with SE Newport Way. The proposal would add new curb, gutter, storm drain, and a sidewalk with a retaining wall adjacent to the new lane. The proposed road expansion would impact approximately 7,400 SF of steep slope critical area. Tree replacement mitigation is proposed in the Eastgate Open Space.
File Number:	18-120745-LO
Applicant:	Jun Suk An, City of Bellevue Transportation Department
Decisions Included	Critical Areas Land Use Permit (Process II. 20.30P)
Planner:	Peter Rosen, Senior Environmental Planner
State Environmental Policy Act Threshold Determination:	**Determination of Non-Significance** Carol V. Helland, Environmental Coordinator Development Services Department
Director's Decision:	**Approval with Conditions** Michael A. Brennan, Director Development Services Department By: Elizabeth Stead, Land Use Director

Application Date:	August 8, 2018
Notice of Application Date:	August 22, 2018
Decision Publication Date:	February 21, 2019
Project Appeal Deadline:	March 7, 2019

For information on how to appeal a proposal, visit Development Services Center at City Hall or call (425) 452-6800. Appeal of the decision must be received in the City's Clerk's Office by 5 PM on the date noted for appeal of the decision.

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Attachments

1. Tree Replacement Mitigation Plan - Attached
2. Road Plans – In File
3. Critical Areas Report – In File
4. Geotechnical Report – In File

I. Proposal Description

The City of Bellevue Transportation Department (COBT) proposes to construct a right-turn lane on 150th Ave SE at SE Newport Way. A southbound to westbound 800-foot right-turn lane (10.5 feet wide) would be added on the west side of 150th Ave SE, north of the intersection with SE Newport Way, widening the four-lane roadway to five lanes. The proposal would add new curb, gutter, storm drain, and sidewalk adjacent to the new lane. Two retaining walls, with a maximum exposed height of 14 feet, are proposed at the north and south ends of the project to minimize fill slope encroaching onto private properties.

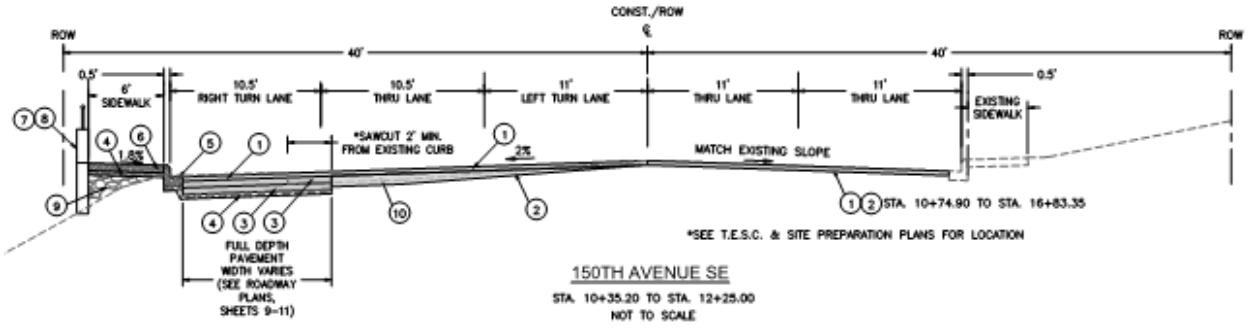
The project site is surrounded by single-family residences and the project would impact landscaping on 11 properties. The project will need to acquire temporary easements for construction and easements for the walls and wall maintenance.

The proposed road expansion would impact approximately 7,400 SF of steep slope critical area, result in 1,500 SF of temporary impacts, and would have a total disturbed area of 46,800 SF. The steep slope is directly adjacent to the existing roadway. Impacts to the steep slope area would be minimized with use of cantilevered retaining walls.

Expansion of roads within public rights-of-way is allowed in critical areas/critical area buffers provided the proposal addresses applicable performance standards (LUC 20.25H.055). A Critical Areas Land Use Permit is required because the proposed project would expand the existing roadway and impact a steep slope critical area (LUC 20.25H.015.B).

Figure 1 – Site Plan

Figure 2 – Road Section (Typical)



Tree Impacts and Mitigation

A total of 47 significant trees (trees over 8 inches diameter) would be removed for project construction. 32 trees would be removed within the steep slope critical area adjacent to the roadway; 15 trees between 8-12 inches in diameter and 17 trees over 12 inches in diameter.

To mitigate for the trees removed from steep slope areas, the project would plant a total of 49 trees. Trees would be replaced at a 1:1 ratio for the 8-12 inch diameter trees and at a 2:1 ratio for trees greater than 12-inches in diameter. Because the road expansion would occupy most of the 150th Ave SE right-of-way, there are no opportunities for tree replacement within the right-of-way. Therefore, the tree mitigation would be located in Eastgate Park, on City-owned property located on SE Newport Way to the southwest of the project site. Eastgate Park and the mitigation area is currently dominated by deciduous forest with an understory of native shrubs and some invasive species (e.g. English ivy, laurel). The mitigation would plant native conifer tree species (Western Red Cedar, Western Hemlock) to advance natural succession and provide greater species diversity which increase wildlife habitat niches. See Attachment 1, Tree Replacement Mitigation Plan.

Figure 3 – Project Impacts – Wall 1

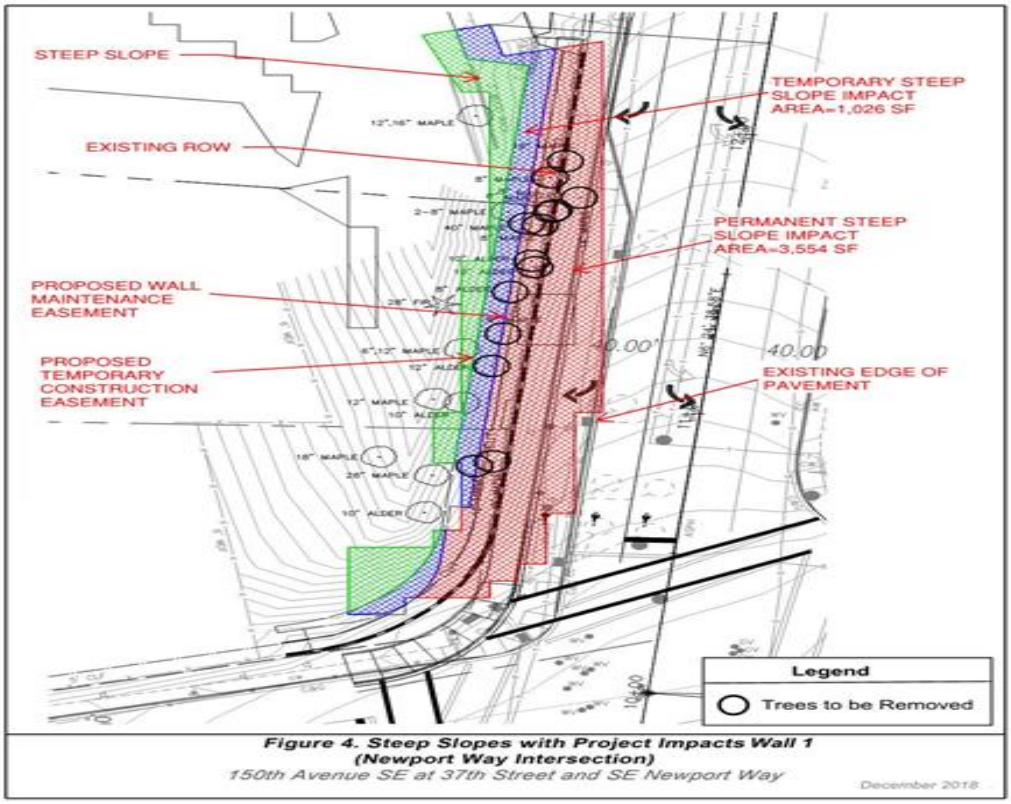
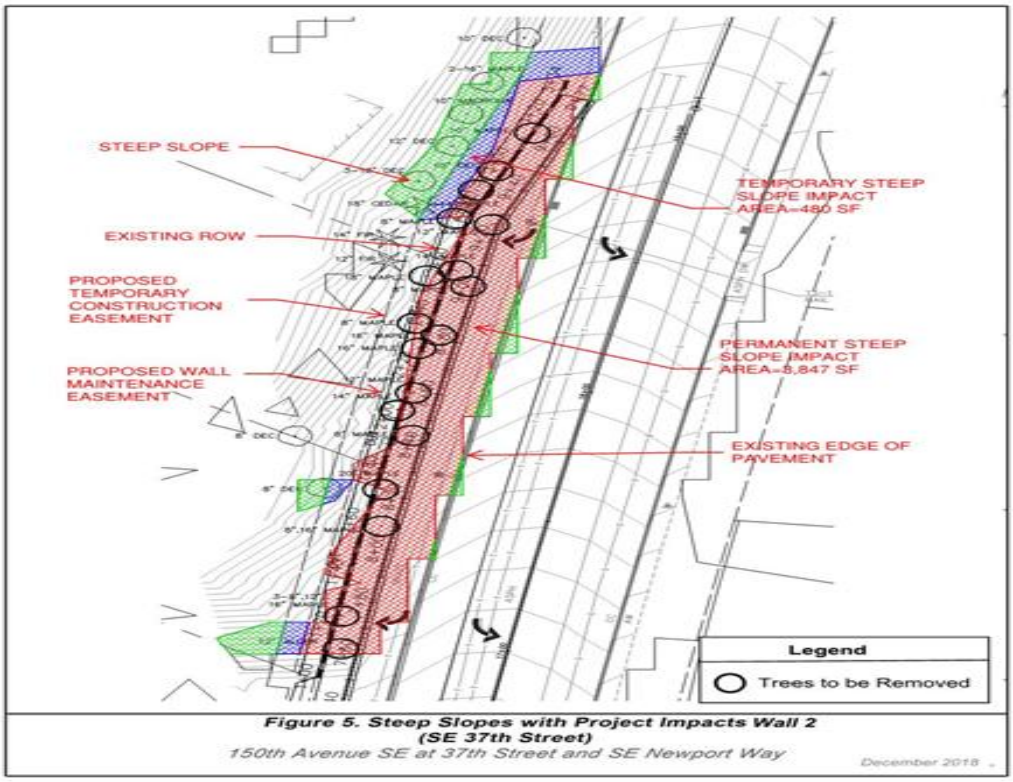


Figure 4 – Project Impacts – Wall 2



II. Site Description, Zoning, Land Use and Critical Areas

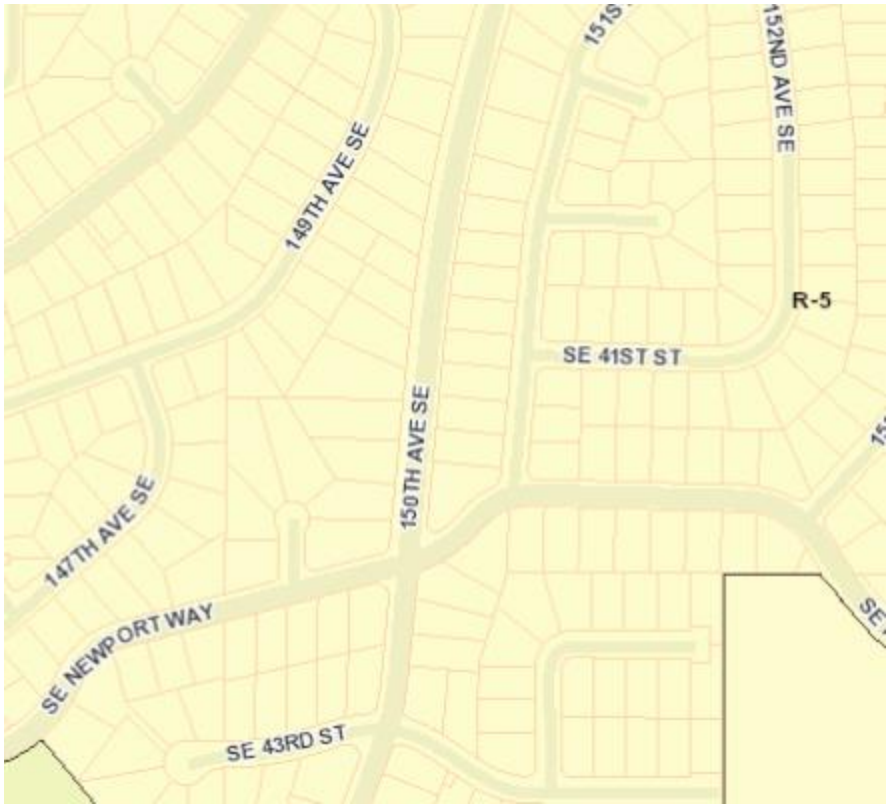
A. Site Description

The project site is located on the west side of 150th Ave SE, north of the intersection with SE Newport Way. The area is characterized as a m**ix** of urban forest and residential landscaping. In and around the steep slope areas the forest canopy includes Douglas Fir, Big-leaf Maple, Red Alder and Pacific Madrone, with understory species including Himalayan Blackberry, English Holly, and Western Sword fern. The residential landscape areas include Laurel species and other ornamental species.

B. Zoning

The project area is surrounded by single-family zoning (R-5) and adjacent properties are improved with single family residences.

Figure 3 – Zoning Map



C. Land Use Context

The Comprehensive Plan designation for 150th Ave SE and adjacent properties is Single-Family High Density (SF-H). The proposal is consistent with the Land Use designation.

D. Critical Areas Functions and Values

i. Geologic Hazard Areas

Geologic hazards pose a threat to the health and safety of citizens when commercial, residential, or industrial development is inappropriately sited in areas of significant hazard. Some geologic hazards can be reduced or mitigated by engineering, design, or modified construction practices. When technology cannot reduce risks to acceptable levels, building in geologically hazardous areas is best avoided (WAC 365-190).

Steep slopes may serve several other functions and possess other values for the City and its residents. Several of Bellevue's remaining large blocks of forest are located in steep slope areas, providing habitat for a variety of wildlife species and important linkages between habitat areas in the City. These steep slope areas also act as conduits for groundwater, which drains from hillsides to provides a water source for the City's wetlands and stream systems. Vegetated steep slopes also provide a visual amenity in the City, providing a "green" backdrop for urbanized areas enhancing property values and buffering urban development.

III. Consistency with Land Use Code Requirements:

A. Zoning District Dimensional Requirements:

Highway and Street Right-of-Way is a permitted use in all the residential zoning districts (LUC 20.10.440). Zoning dimensional requirements of the Land Use Code do not apply within public rights-of-way. The proposal is to construct roadway improvements and no structures other than retaining walls are proposed.

B. Critical Areas Requirements LUC 20.25H:

The City of Bellevue Land Use Code Critical Areas Overlay District (LUC 20.25H) establishes performance standards and procedures that apply to development on any site which contains in whole or in part any portion designated as critical area, critical area buffer or structure setback from a critical area or buffer.

The proposed roadway improvements are allowed uses in critical areas, buffers, and setbacks, provided certain requirements are met. The project is subject to the performance standards found in LUC 20.25H.055.C below.

i. Consistency with LUC 20.25H.055.C.2.a

New or expanded facilities and systems are allowed within the critical area or critical area buffer only where no technically feasible alternative with less impact on the critical area or critical area buffer exists. A determination of technically feasible alternatives will consider:

1. **The location of existing infrastructure;**

   Finding: The proposal is to add a right-turn lane within existing City right-of-way. Widening the existing roadway is the only feasible alternative to meet the project objective.

2. **The function or objective of the proposed new or expanded facility or system;**

   Finding: The objective of the proposed roadway expansion is to improve traffic capacity and safety along the 150th Ave SE corridor.

3. **Demonstration that no alternative location or configuration outside of the critical area or critical area buffer achieves the stated function or objective, including construction of new or expanded facilities or systems outside of the critical area;**

   Finding: Alternative locations or configurations outside the existing road right-of-way are constrained by existing development and would likely have equal or greater critical area impacts.

4. **Whether the cost of avoiding disturbance is substantially disproportionate as compared to the environmental impact of proposed disturbance; and**

   Finding: Impacts to the steep slope area could not be avoided since the steep slope is directly adjacent to the existing roadway. The project includes retaining walls to reduce the footprint of road fill compared to a sloped road prism, to minimize the impacts and improve slope stability.

5. **The ability of both permanent and temporary disturbance to be mitigated.**

   Finding: The proposal would remove 32 trees from steep slope areas and mitigate the impact by planting 49 trees in Eastgate Park because there is no tree replacement area available within the existing right-of-way. Areas of temporary disturbance will be revegetated.

   A final mitigation plan is required to be submitted and approved with clearing and grading permit construction plans. The final mitigation plan shall show general planting locations, plant species, plant quantities and size of plant material, and shall include notes to direct in-fill plantings. The mitigation planting is required to be maintained and monitored for five years. The final mitigation plan shall include performance standards to measure the successful establishment of the mitigation plantings. **See Section X for a related condition of approval.**

ii. Consistency with LUC 20.25H.055.C.2.b

If the applicant demonstrates that no technically feasible alternative with less impact on the critical area or critical area buffer exists, then the applicant shall comply with the following:

1. **Location and design shall result in the least impacts on the critical area or critical area buffer;**
2. **Disturbance of the critical area and critical area buffer, including disturbance of vegetation and soils, shall be minimized;**
3. **Disturbance shall not occur in habitat used for salmonid rearing or spawning or by any species of local importance unless no other technically feasible location exists;**
4. **Any crossing over of a wetland or stream shall be designed to minimize critical area and critical area buffer coverage and critical area and critical area buffer disturbance, for example by use of bridge, boring, or open cut and perpendicular crossings, and shall be the minimum width necessary to accommodate the intended function or objective; provided, that the Director may require that the facility be designed to accommodate additional facilities where the likelihood of additional facilities exists, and one consolidated corridor would result in fewer impacts to the critical area or critical area buffer than multiple intrusions into the critical area or critical area buffer;**
5. **All work shall be consistent with applicable City of Bellevue codes and standards;**
6. **The facility or system shall not have a significant adverse impact on overall aquatic area flow peaks, duration or volume or flood storage capacity, or hydroperiod;**
7. **Associated parking and other support functions, including, for example, mechanical equipment and maintenance sheds, must be located outside critical area or critical area buffer except where no feasible alternative exists; and**
8. **Areas of new permanent disturbance and all areas of temporary disturbance shall be mitigated and/or restored pursuant to a mitigation and restoration plan meeting the requirements of LUC 20.25H.210.**

Finding: The proposal is designed to minimize impacts to steep slope critical areas by using retaining walls to reduce the footprint of road fill. The impacts are limited to steep slopes adjacent to the roadway; the proposal would not disturb habitat used by salmonids or by species of local importance. No wetland or stream crossings are proposed, and the proposal would not have a significant adverse impact on aquatic area flow peaks, duration, volume or flood storage capacity. No parking or other support functions are proposed. Areas of permanent and temporary disturbance will

be mitigated and restored.

iii. Consistency with LUC 20.25H.125 - Performance standards - Landslide hazards and steep slopes.

In addition to generally applicable performance standards set forth in LUC 20.25H.055 and 20.25H.065, development within a landslide hazard or steep slope critical area or the critical area buffers of such hazards shall incorporate the following additional performance standards in design of the development, as applicable. The requirement for long-term slope stability shall exclude designs that require regular and periodic maintenance to maintain their level of function.

Finding: The project has been designed to avoid maintenance that could affect long-term slope stability and the design would not require regular or periodic maintenance to maintain slope stability.

A. Structures and improvements shall minimize alterations to the natural contour of the slope, and foundations shall be tiered where possible to conform to existing topography;

Finding: The project design includes the use of cantilevered soldier pile walls, which will reduce the footprint of road fill compared to a sloped road prism.

B. Structures and improvements shall be located to preserve the most critical portion of the site and its natural landforms and vegetation;

Finding: The proposed project is located within the existing road right-of-way and within temporary construction easements; these areas have already been altered and modified from its natural landform and vegetation. The project footprint has been reduced with use of retaining walls to minimize impacts to vegetation and natural landforms.

C. The proposed development shall not result in greater risk or a need for increased buffers on neighboring properties;

Finding: The project will result in stabilized slopes and will not pose a risk to the adjacent property owners. Neighboring properties will not require increased critical area buffers, as the properties are already encumbered by steep slope areas.

D. The use of retaining walls that allow the maintenance of existing natural slope area is preferred over graded artificial slopes where graded slopes would result in increased disturbance as compared to use of retaining wall;

Finding: The Project has proposed cantilevered soldier pile walls to ensure long-term slope stability. This design reduces the project footprint and disturbance over use of graded artificial slopes.

E. Development shall be designed to minimize impervious surfaces within the critical area and critical area buffer;

Finding: The project has been designed to minimize expansion of the roadway and impervious surfaces into steep slope areas critical areas. Minimum impervious surfaces are proposed that will still meet the requirements for the roadway and sidewalk improvements.

F. Where change in grade outside the building footprint is necessary, the site retention system should be stepped and regrading should be designed to minimize topographic modification. On slopes in excess of 40 percent, grading for yard area may be disallowed where inconsistent with this criteria;

Finding: Not applicable, proposal does not include building structures.

G. Building foundation walls shall be utilized as retaining walls rather than rockeries or retaining structures built separately and away from the building wherever feasible. Freestanding retaining devices are only permitted when they cannot be designed as structural elements of the building foundation;

Finding: Not applicable, proposal does not include building structures.

H. On slopes in excess of 40 percent, use of pole-type construction which conforms to the existing topography is required where feasible. If pole-type construction is not technically feasible, the structure must be tiered to conform to the existing topography and to minimize topographic modification;

Finding: Not applicable, proposal does not include building structures.

I. On slopes in excess of 40 percent, piled deck support structures are required where technically feasible for parking or garages over fill-based construction types; and

Finding: Not applicable, proposal does not include building structures.

J. Areas of new permanent disturbance and all areas of temporary disturbance shall be mitigated and/or restored pursuant to a mitigation and restoration plan meeting the requirements of LUC 20.25H.210.

Finding: Areas of permanent disturbance will be mitigated; the 32 trees removed from steep slope critical areas will be replaced with 49 trees planted in City-owned Eastgate Park. See Attachment 1. The tree replacement mitigation would infill native conifer trees in an area dominated by deciduous tree species; increasing species diversity, structural diversity, adding habitat niches and accelerating natural vegetation succession. Areas of temporary disturbance will be restored.

The proposed mitigation and restoration meets requirements of LUC 20.25H.210. Final mitigation plans will be required for construction permit approval. **See Conditions of Approval in Section X of this report.**

IV. Public Notice and Comment

Application Date:	August 8, 2018
Public Notice (500 feet):	September 6, 2018
Minimum Comment Period:	September 20, 2018

The Notice of Application for this project was published in the City of Bellevue Weekly Permit Bulletin and Seattle Times on September 6, 2018. It was mailed to property owners within 500 feet of the project site. An email was received from Nick Jabbour suggesting that the project grade and fill on his property to eliminate the steep slope on his property. The plans include a soldier pile retaining wall in this location to minimize steep slope impacts.

An email (September 11, 2018) was received from Charlie Klinge requesting copies of the Critical Areas Report and Geotechnical Report, which were emailed to him. An email (October 1, 2018) was received from Charlie Klinge requesting staff review comments. Staff review comments on the initial project submittal were sent to Charlie Klinge on November 27, 1018.

V. Summary of Technical Reviews

A. Clearing and Grading

The Clearing and Grading Division of the Development Services Department reviewed the proposal for compliance with Clearing and Grading codes and standards and has approved the application.

VI. State Environmental Policy Act (SEPA)

The environmental review indicates no probability of significant adverse environmental impacts occurring as a result of the proposal. The Environmental Checklist submitted with the application adequately disclosed expected environmental impacts associated with the project. The City codes and requirements, including the Clear and Grade Code, Utility Code, Land Use Code, Noise Ordinance, Building Code and other construction codes are expected to mitigate potential environmental impacts. Therefore, issuance of a Determination of Non-Significance (DNS) is the appropriate threshold determination under the State Environmental Policy Act (SEPA) requirements.

A. Earth and Water

The applicant will be required to obtain a clearing and grading permit and follow erosion and sediment control best management practices to prevent erosion impacts. **See Conditions of Approval in Section X of this report**

B. Plants

Impacts to steep slope critical areas are limited to areas adjacent to the roadway. The proposal would remove 32 trees and plant 49 trees to mitigate for the impact.

VII. Changes to Proposal Due to Staff Review

Tree replacement mitigation was added as a change to the proposal following comments on the initial project proposal. There are limited opportunities to replace trees within the existing road right-of-way, so staff in the Parks Department, Transportation Department and Development Services Department concurred that tree planting could locate in the nearby City-owned Eastgate Park to mitigate for project impacts.

VIII. Decision Criteria

A. 20.30P.140 Critical Area Land Use Permit Decision Criteria – Decision Criteria

The Director may approve, or approve with modifications an application for a Critical Area Land Use Permit if:

1. **The proposal obtains all other permits required by the Land Use Code.**

   Finding: All required construction permits will be obtained prior to commencing construction. **See Conditions of Approval in Section X of this report.**

2. **The proposal utilizes to the maximum extent possible the best available construction, design and development techniques which result in the least impact on the critical area and critical area buffer.**

   Finding: Appropriate best management practices (BMPs) will be utilized throughout the construction process to ensure the least amount of disturbance to the critical areas. This includes the use of soldier pile retaining walls to minimize steep slope disturbance.

   Tree protection measures shall be employed to protect trees not specifically identified for removal during construction activity. **See Conditions of Approval in Section X of this report.**

3. **The proposal incorporates the performance standards of Part 20.25H to the maximum extent applicable.**

   Finding: The proposal incorporates the performance standards related to geologic hazard areas including steep slopes to the maximum extent applicable, as discussed in Section III above.

4. **The proposal will be served by adequate public facilities including street, fire protection, and utilities.**

   Finding: The project will be served by adequate public facilities.

5. **The proposal includes a mitigation or restoration plan consistent with the requirements of LUC Section 20.25H.210.**

   Finding: The proposal includes a mitigation plan consistent with the requirements of LUC 20.25H.210.

   A final mitigation planting plan shall be included with the clearing/grading permit and shall include performance standards to monitor the success of the mitigation planting. **See Conditions of Approval in Section X of this report.**

6. **The proposal complies with other applicable requirements of this code.**
   Finding: As discussed in this report, the proposal complies with all other applicable requirements of the Land Use Code.

IX. Conclusion and Decision

After conducting the various administrative reviews associated with this proposal, including Land Use Code consistency, City Code and Standard compliance reviews, the Director of the Development Services Department does hereby **approve with conditions** an 800-foot-long right turn lane on the west side of 150th Ave SE, extending north of the intersection with SE Newport Way.

Approval of this Critical Areas Land Use Permit does not constitute a permit for construction. Separate construction permits are required and all plans are subject to review for compliance with applicable City of Bellevue codes and standards.

Note- Expiration of Approval: In accordance with LUC 20.30P.150 a Critical Areas Land Use Permit automatically expires and is void if the applicant fails to file for a construction permit or other necessary development permits within one year of the effective date of the approval.

X. Conditions of Approval

The applicant shall comply with all applicable Bellevue City Codes and Ordinances including but not limited to:

Applicable Ordinances	Contact Person
Clearing and Grading Code- BCC 23.76	Janney Gwo, 425-452-6190
Land Use Code- BCC Title 20	Peter Rosen, 425-452-5210

The following conditions are imposed under the Bellevue City Code as referenced:

1. **Clearing and Grading Permit Required:** Approval of this Critical Areas Land Use Permit does not constitute an approval of any construction permit. Plans submitted as part of any permit application shall be consistent with the activity permitted under this approval.

Authority: Land Use Code 20.30P.140
Clearing & Grading Code 23.76.035

Reviewer: Janney Gwo, Development Services Department, Clearing & Grading Section

2. **Final Mitigation Plan:** A final mitigation planting plan shall be submitted with the clearing and grading permit. The plans shall specify plant species, sizes, quantities, spacing and notes to direct in-fill plantings. The final mitigation plan shall also include performance standards to measure the successful establishment of the mitigation plantings. The following performance standards are required:

Year 1 (from date of plant installation)

- 100% survival of all installed plants and/or replanting in following dormant season to reestablish 100%
- Less than 5% cover of non-regulated Class A, B, or C noxious weeds as identified on the King County Noxious Weed List.
- No (0%) regulated Class A, B, or C noxious weeds.

Year 2 (from date of plant installation)

- 90% survival of all installed plants and/or replanting in following dormant season to reestablish 90%
- Less than 5% cover of non-regulated Class A, B, or C noxious weeds as identified on the King County Noxious Weed List.
- No (0%) regulated Class A, B, or C noxious weeds.

Year 3

- Greater than 60% cover of installed and volunteer native plants.
- Less than 10% cover of non-regulated Class A, B, or C noxious weeds as identified on the King County Noxious Weed List.
- No (0%) regulated Class A, B, or C noxious weeds.

Year 4

- Greater than 75% cover of installed and volunteer native plants.
- Less than 15% cover of non-regulated Class A, B, or C noxious weeds as identified on the King County Noxious Weed List.
- No (0%) regulated Class A, B, or C noxious weeds.

Year 5

- Greater than 80% cover of installed and volunteer native plants.
- Less than 15% cover of non-regulated Class A, B, or C noxious weeds as identified

on the King County Noxious Weed List.

- No (0%) regulated Class A, B, or C noxious weeds.

Authority: Land Use Code 20.30P.140; 20.25H.220
Reviewer: Peter Rosen, Development Services Department

3. **Maintenance and Monitoring:** The mitigation planting is required to be maintained and monitored for five years to ensure the plants successfully establish. Annual monitoring reports are required to be submitted to document the planting is meeting approved performance standards. Monitoring reports shall be submitted to the Environmental Planning Manager for the Land Use Division of Development Services. Monitoring reports must reference the project by name and include the relevant permit numbers.

   Authority: Land Use Code 20.30P.140; 20.25H.220
   Reviewer: Peter Rosen, Development Services Department

4. **Tree Protection:** The clearing and grading permit submittal shall show tree protection measures to protect trees not specifically identified for removal from construction activity.

   Authority: Land Use Code 20.30P.140
   Reviewer: Peter Rosen, Development Services Department

DATE: January 21, 2019 **FROM:** Rick Pratt, Senior Biologist

TO: Jun Suk An **SUBJECT:** Critical Areas Study Addendum

Figure 6. Proposed Conceptual Mitigation Planting Area (Eastgate Park)

Figure 6. Proposed Off-Site Mitigation Planting Area (Eastgate Park)

150th Avenue SE at 37th Street and SE Newport Way Project

Sidewalk Streets Parcels 0 100 200 Feet